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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,882	09/19/2003	Georges Charles	1759.136	8878
23405	7590	09/09/2005	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203			BATSON, VICTOR D	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/666,882

Applicant(s)

CHARLES, GEORGES

Examiner

Victor Batson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Lech (5,471,908) in view of Johnson et al. (5,138,756).

Lech discloses a multipurpose engineering construction machine of the loader/shovel type including a moving chassis, a driving control station, a loader assembly, a shovel assembly and a number of hydraulic directional control valves actuated by manipulators, with a variable-throughput pump supplying a priority valve 57, 71. Lech, however, does not disclose mounting the directional control valves in a single module on the chassis between a rear axle and a frame supporting the shovel assembly.

Johnson et al., teaches that it is known in the art to mount a module of control valves 39 transversely on the vehicle chassis between a rear axle and a frame 12 which supports the shovel assembly as shown in figures 1 & 4. The module of Johnson et al. is mounted to the frame, directly below the actuation levers. This is a simple and

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compact design that is easy to design and assemble. Johnson et al., also discloses the directional control valves being laterally arranged.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lech by mounting the directional control valves in a single module on the vehicle chassis between the rear axle and a frame supporting the shovel assembly as taught by Johnson et al., to provide a simple and compact design.

Response to Arguments

Applicant's arguments filed 6/20/05 have been fully considered but they are not persuasive. Applicant argues that the control valves disclosed in the Johnson et al. (5,138,756) reference are related to the backhoe assembly only and therefore the teachings of the two applied references would not produce the invention as defined by independent claim 1. The examiner agrees that Johnson et al., does not specifically teach mounting the directional control valves associated with the shovel assembly together with the loader assembly directional control valves, however Johnson et al., does not specifically teach against such an arrangement. Additionally, since Johnson et al., is silent as to where the shovel assembly valves are mounted and Johnson et al., teaches mounting one control system to other control systems (col. 10) as well as disclosing the mounting of the outrigger control valves with the backhoe directional control valves, the grouping of the shovel assembly control valves with the backhoe assembly control valves would have been obvious. Applicant's arguments regarding

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those skilled in the art being dissuaded from merging the valve sets because they would fear forming too long of a module are opinion not supported by facts or the prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 1, 2005

A handwritten signature in black ink, reading "Victor Batson". The signature is fluid and cursive, with the first name "Victor" and last name "Batson" clearly distinguishable.

Victor Batson
Primary Examiner
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